

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In the Matter of            )  
Expanding the Economic and Innovation   ) Docket No. 12-268  
Opportunities of Spectrum   )  
Through Incentive Auctions   )

COMMENTS OF  
MICHAEL GRAVINO

Michael Gravino  
LPTV Investor

PO Box 15141  
600 Pennsylvania Ave, SE  
Washington, DC 20003  
(202) 604-0747  
mikegravino@yahoo.com

March 12, 2013

It has become clear that there will not be enough full power and Class A stations which will be participating in the Auction. And it is also clear that the FCC intends on clearing a national band no matter what happens. While seemingly contradictory, not enough bandwidth being offered to clear the band, and the intent to clear the band no matter what, it is clear that LPTV stations in the top-30 markets will take the hit, be eliminated or have to take a VHF channel when they move. This means a huge new cost which the Act does not provide any funding for.

It is well within the authority of the FCC to reopen the Class-A window, no new Congressional action is needed. If you attempt to eliminate the LPTV stations in the t-30 markets the FCC will have to defend itself in court, will cost the taxpayers a lot of money, and the US Treasury will be delayed by years in receiving its funds from the Auction. So will all of the participants in the Auction.

If the FCC opens the Class A window and allows any LPTV station a six-month period of time to qualify, then two things will happen which are very beneficial to the broadcasting service.

*First*, some LPTV stations spend the funding to qualify, meaning they will start to provide more community content, which is a goal of the FCC. A percentage of these stations will elect to stay on air and not participate in the auction but they will be assured that their new community content will survive the repack. This is a great way to accommodate the stations which want to become “civic broadcasters” and serve to solve the “civic broadcasting digital divide”, that is, those TV households, some 50%-35% in local communities which do not subscribe to cable or telco paid cable services, and as such, can not receive local government and educational access channels which are on cable. (See Civic Affairs TV Network submission).

Another group of LPTV stations will elect also to upgrade to Class A, add the programming and will meet the other conditions of being a Class A, but this group will choose to participate in the auction. So the FCC gains needed spectrum.

*Second*, some LPTV stations will not want to upgrade to Class A, and will just wait out the repack. They will be willing to risk losing their licenses.

By opening up the Class-A window the FCC can greatly increase both the amount of spectrum it can make available for sale, increase the amount to the Treasury, and speed up the process by avoiding the inevitable legal challenges.

## **A HUGE PROBLEM NO ONE HAS COMMENTED ON**

The FCC has a real problem with LPTV spectrum speculators who have filed 100's of applications for construction permits and have no intent on becoming broadcast stations. They are speculating that they will be able to keep filing extensions until such time that they can deploy a "flex-use" system using an advanced modulation scheme based on either ATSC 3.0 and or global standards. What this has done is to extremely limit the available spectrum in many communities. Unless the FCC begins to really crack down on these speculators who have no intention of becoming broadcasters, there will be a real spectrum crunch in DMA's 31-210. The FCC needs to be absolutely clear that no extensions of CP's will be allowed unless proper justification is shown which relates directly to the build-out of broadcast facilities based on the current standard at the time.

## **THE CLASS A PROBLEM NO ONE WILL TALK ABOUT**

While the FCC has recently taken steps to decertify selected Class A licensees for failure to provide either the programming or facilities as required by the Class A rules, anecdotally, and from just a quick look at what is being offered for programming on numerous Class A stations around the country, there seems to be a real disconnect on the policing of Class A stations. If these stations are counting on the payday in the auction, they should at least be performing the valuable community service they were intended to perform.

## **THE REAL PROBLEM IS THE WAY THE AUCTION IS AUTHORIZED**

The Spectrum Act is all backwards. The two classes of stations it allows to be auctioned off are the exact classes of stations the Congress and the FCC have deemed essential to community vital needs such as EAS and diversity. So why are these the classes which will be auctioned off? Was there ever a study done to see if the LPTV service would provide as much spectrum as is needed? Just a quick look at the number of LPTV stations clearly shows that a great deal of spectrum could be recovered if they were allowed in the auction. But unless Congress amends the Act, the FCC has the power to change what it can.

## **CONCLUSION**

Open up the Class A window and let willing LPTV licensees participate in the auction. Crack down on flex-use speculators and do not let them tie-up spectrum by extending their CPs. Police the current Class A licensees and make sure they still qualify for Class A status. Rethink how the Auction process proceeds and attempt to minimize the loss of community content and EAS services.